

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 15, 2000

ALL-COUNTY LETTER NO. 00-66.

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
STATE ADVISORY COUNCIL
VOLUNTARY AGENCIES
MUTUAL ASSISTANCE ASSOCIATIONS OR COUNCIL MEMBERS
FORUM CHAIRS
COUNTY REFUGEE COORDINATORS

SUBJECT: CLARIFICATION OF ASYLEE ELIGIBILITY FOR REFUGEE
RESETTLEMENT PROGRAM BENEFITS

The purpose of this All County Letter is to expand on the information that was given in ACL No. 00-46, dated July 12, 2000 and to provide clarification, corrections and additions in regard to documentation issues.

Attached is the federal Office Refugee Resettlement's (ORR) State Letter 00-15 dated August 3, 2000, subject Asylee Eligibility for Refugee Resettlement Program Benefits which provides this information.

Should you have any questions, please contact Ms. Linda Keene, Refugee Programs Branch, at (916) 654-2602 or lkeene@dss.ca.gov.

Sincerely,

*Original Document Signed by
Bruce Wagstaff on 9/8/00*

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

c: CWDA

United States Department of Health and Human Services

Administration for Children and Families

370 L'Enfant Promenade, S.W.

Washington, D.C. 20447

ORR State Letter

#00-15

August 3, 2000

TO: STATE REFUGEE COORDINATORS

NATIONAL VOLUNTARY AGENCIES

OTHER INTERESTED PARTIES

FROM: Lavinia Limon, Director

Office of Refugee Resettlement

SUBJECT: Asylee Eligibility for Refugee Resettlement Program Benefits

The purpose of this State Letter is to clarify and expand on the information that was given in State Letter #00-12. In State Letter #00-12, the Office of Refugee Resettlement (ORR) announced that, effective June 15, asylees are eligible for refugee assistance and services beginning on the date that they are granted asylum. Under this new ORR policy, the date that an individual is granted asylum is the person's "entry" date. The "entry" date (i.e., date that asylum is granted) is used to compute the benefits eligibility period for ORR assistance and services.

All asylees, whether they were granted asylum before or after June 15, are eligible to apply for ORR assistance and services under the new policy. Pursuant to 45 CFR

§ 400.203(b) and § 400.211, eligible asylees will be able to access refugee cash and medical assistance (RCA and RMA) for eight months beginning on the date that they are granted asylum. For social services, the eligibility period, noted at 45 CFR § 400.152(b), is five years from the date that they are granted asylum. No retroactive assistance or services will be given to individuals whose eligibility period expired before the June 15 policy change. In other words, if an individual were granted asylum on October 1, 1999, his or her eligibility period for RCA and RMA would have expired on May 31, 2000. This individual would not be eligible for RCA and RMA. However, if an individual were granted asylum on May 1, 2000 and applied on June 30, 2000, he or she would

be eligible for RCA and RMA from the date of application through December 2000. In this case, no additional assistance or services will be provided for the months of eligibility that occurred prior to the policy change and prior to the date of application (i.e., no assistance or services would be given for the months of May and June, which occurred prior to the policy change and prior to the date of application).

Documentation Issues

State Letter #00-12 included a list of documents that show proof of asylum status and date of "entry" (i.e., date of asylum grant). For reference, we have included that document list here. Please note the corrections and additions to the list as discussed below.

INS Form I-94 Arrival/Departure Card noting that the individual has been admitted under § 208 of the INA

2. INS Form I-94 Arrival/Departure Card with the admission codes AS-1, AS-2 or AS-3
3. ***INS Form I-94 Arrival/Departure Card with Visa 93 (or V-93) **Note correction below.**
 - (4) ***Order of an Immigration Judge Granting Asylum under § 208 of the INA **Note additional information below.**

(5) Asylum Approval Letter from an INS Asylum Office

***I-730 Approval Letters and Board of Immigration Appeals (BIA) decisions have been added to this list. See information below.

Please make the following modifications and additions to the above list:

- (1) **Visa Numbers.** In State Letter #00-12, ORR listed the Form I-94 Arrival/Departure Card with the notation Visa 93 (V-93) as proof that an individual has asylee status. This notation is incorrect. A Visa 92 (V-92) notation on the Form I-94 Arrival/Departure Card is proof of asylee status.
- (2) **Immigration Judge Orders.** Also in State Letter #00-12, ORR listed an Order of an Immigration Judge granting asylum under § 208 of the INA as proof of asylee status. An Order of an Immigration Judge granting asylum under § 208 of the INA will serve as proof of asylee status if the Immigration and Naturalization Service (INS) has waived the right to appeal the case. The date on the Immigration Judge Order will serve as the "entry" date (i.e., the date the individual was granted asylum). An Immigration Judge Order will have a section where it is noted whether the INS has waived or reserved its right to appeal.

If the INS has reserved its right to appeal, an Immigration Judge Order will not serve, on its own, as proof of asylee status. If an asylee brings an Immigration Judge Order that shows the INS has reserved its right to appeal, eligibility workers must wait 30 days from the date on the Immigration Judge Order. On or after the 31st day, the eligibility worker will need to call the Executive Office for Immigration Review (EOIR) case status line at (800) 898-7180 to find out whether the INS has appealed the case. If the INS has appealed the case, the individual is not yet an asylee and is not eligible for benefits. (Please see the note below about the EOIR case status line. The EOIR reports that it may take up to 5 days after the appeal deadline for the

information to be relayed to the case status line.

If the INS has not appealed the case and 30 days have passed since the date on the Immigration Judge Order, the individual is an asylee and is eligible for ORR assistance and services. In this situation, thirty days after the date on the Immigration Judge Order will serve as the "entry" date (i.e., the date the individual was granted asylum). For example, an individual may have an Immigration Judge Order dated September 1, 2000. He or she may come to apply for ORR assistance and services on October 1, 2000. In this case, the eligibility worker should call the EOIR case status line. If the case status line reports that INS has not appealed the case, the individual is an asylee and is eligible for ORR assistance and services. October 1, 2000 will serve as the "entry" date (i.e., the date the individual was granted asylum). This individual would be eligible for RCA and RMA beginning on October 1, 2000 and continuing until May 30, 2001 (assuming eight-month eligibility period and calendar month or actual date of arrival to compute time-eligibility).

Documentation and Situation	Action	Benefit Eligibility (referring only to asylum status)	"Entry" Date (i.e., date of asylum grant) for ORR purposes
Immigration Judge Order with notation that appeal was waived by INS	No EOIR verification needed	Eligible	Date on Immigration Judge Order
Immigration Judge Order with notation that appeal was reserved by INS; INS did not appeal	No action can be taken until 30 days after the date on the Immigration Judge Order; on or after the 31 st day**, call EOIR case status line at (800) 898-7180 to see whether INS has appealed	If INS did not appeal, the individual is an asylee and is eligible for ORR assistance and services	30 days after the date on the Immigration Judge Order; example: Immigration Judge Order dated September 1, 2000; INS did not appeal; "Entry" date (i.e., date of asylum grant) is October 1, 2000
Immigration Judge Order with notation that appeal was reserved by INS; INS appealed	No action can be taken until 30 days after the date on the Immigration Judge Order; on or after the 31 st day**, call EOIR case status line at (800) 898-7180 to see whether INS has appealed	If INS has appealed the case, the individual is not an asylee and is not yet eligible for ORR assistance and services	No "entry" date (i.e., no asylum grant); individual is not yet an asylee

****Note:** Although the EOIR case status line is updated every 24 hours, ORR cautions that, on occasion, eligibility workers may find that the case status line does not contain the needed appeal information on the 31st day. The EOIR reports that it may take up to 5 days after the appeal deadline for the information to be relayed to the case status line.

(3) **Recommended Asylum Approvals.** Recommended Asylum Approvals are **NOT** proof of asylee status. During the affirmative asylum process with the INS, individuals first receive a recommended approval letter from the asylum office. A recommended approval letter lets the applicant know that his or her application has been recommended for approval and that an investigation of his or her identity and background will be conducted before a final approval is issued. These recommended approval letters allow applicants to apply for employment authorization documents. However, they are not proof of asylee status. Recommended asylum approval letters should not be accepted as proof of asylee status.

(4) **Family Members.** If an asylee includes his or her spouse and children on the asylum application, the family members have the same "entry" date (i.e., asylum grant date) as the principal asylee. In some cases, an asylee's family may not be in the United States. To bring the family to the United States, the principal asylee will complete a Form I-730. The date that these family members enter the United States will be their "entry" date for ORR purposes. Eligibility workers should use the date that the family members enter the U.S. to compute the benefit eligibility period. These family members should receive I-94 Arrival/Departure Cards from the INS noting the "entry" date. In other cases, an asylee's family may be in the United States but the principal asylee may not have included family members in the asylum application. In this situation, the principal asylee will need to complete a Form I-730 for family members. The "entry" date of the spouse and children will be the approval date of the I-730. The INS should issue a Form I-94 Arrival/Departure Card for the derivatives noting their "entry" date and their status as asylees. **In addition, an I-730 approval letter will be acceptable proof of asylee status.**

Situation	"Entry" Date for ORR purposes
Family members included in principal asylee's application	Same "entry" date (i.e., date of asylum grant) as principal asylee
Family members outside of the United States; I-730 process; Visa 92	Date that the family members enter the United States; date of "entry" should be noted on Form I-94
Family members in the United States; not included on principal's asylum application; I-730 process	Date that the I-730 application is approved; INS should issue Form I-94 with this date; I-730 approval letter also will be acceptable documentation

Note: Under the old policy, the "entry" date for principal and derivative asylees would be the date they entered the United States.

(5) **Other Grants of Asylum.** Along with the INS and Immigration Judges, the Board of Immigration Appeals (BIA) may grant asylum. In most cases, individuals who have received asylum from the BIA will apply to the INS for documentation confirming their status. Asylees most likely will have a piece of documentation with which eligibility workers are familiar, such as the I-94 Arrival/Departure Card. **However, eligibility workers may accept written decisions from the BIA as proof that an individual has asylee status.** The "entry" date (i.e., date of asylum grant) will be the date on the decision.

Cuban and Haitian Entrants

Cuban and Haitian entrants may be eligible for ORR assistance and services before they are granted asylum. A Cuban and Haitian entrant, who previously was eligible for refugee assistance and services under ORR regulations concerning Cuban and Haitian entrants, will NOT be able to access additional assistance and services by beginning a new eligibility period on the date asylum is granted.

ORR Programs

Asylees are eligible for all ORR assistance and services. This includes Match Grant programs, Wilson-Fish programs and all social services programs. The program rules that apply to refugees generally apply to asylees. For example, refugees must register to be part of a Match Grant program within 31 days of entering the United States. Similarly, asylees must be enrolled in the Match Grant program within 31 days of receiving asylum (i.e., their "entry" date). There are certain common-sense exceptions. One example is that a voluntary agency does not need to have an established relationship with an asylee through the Department of State's Reception and Placement Cooperative Agreement in order for the asylee to be eligible for a Match Grant program. Another example is that asylees do not need to provide the name of a resettlement agency in order to be eligible for refugee medical assistance. (See 45 CFR § 400.100.) Without the association to a resettlement agency, there is a potential for asylees to approach more than one agency for services. Therefore, ORR asks that agencies make every effort to avoid duplication of services. If there are any questions about the applicability of eligibility standards, please call or email Anna Marie Bena.

Formula Allocations

ORR is in the process of consulting with the INS in order to receive statistical data on asylees. If ORR is able to obtain asylee data from the INS, ORR will include the data in formula allocations for social services. However, if ORR is unable to obtain asylee data from the INS, States will need to submit the names and pertinent information of the asylees that they have served. ORR will notify States about the outcome of discussions with INS as soon as possible.

Other Government Agencies

ORR's new interpretation of the term "entry" for asylees has no effect on other areas of immigration law or on other interpretations of the term by the INS, the EOIR, the Social Security Administration, the Department of State, the Office of Special Counsel, other departments within the Department of Health and Human Services or any other government agencies that work with asylees. ORR's interpretation of the term "entry" has no effect on an asylee's adjustment of status or naturalization. It also does not entitle asylees to Reception and Placement benefits from the Department of State. This interpretation has an extremely limited applicability. It applies only to the determination of an asylee's eligibility period for ORR assistance and services.

State Refugee Coordinators

Asylees, unlike refugees, will need to learn about available programs and services and to locate the appropriate benefits offices without the aid of resettlement agencies. This can be a daunting task for individuals who have recently arrived in the United States, may not have English language skills and may not have family or other support networks. To assist asylees, ORR has been attempting to compile a complete list of benefits offices in the various states. Until the list is completed, ORR will be referring asylees directly to the State Refugee Coordinators.

Recommendations

ORR suggests that asylees bring a copy of State Letter #00-12 and/or a copy of this State Letter when they go to a benefits office to apply for assistance and services. Asylees will need to bring proof of status, "entry" date (see information above) and identity. In addition, ORR recommends that asylees bring their social security number cards or proof that they have applied for a social security number. This proof may include a letter from the Social Security Administration (SSA) or some type of receipt from the SSA.

If you have questions about any of the information in this State Letter or about the policy in general, please call Anna Marie Bena at (202) 260-5186 or send an email to abena@acf.dhhs.gov. Enclosed with this State Letter is a "Frequently Asked Questions" information sheet about the asylee policy.

Enclosure